

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$102,000.00 in United States Currency,
more or less, and all proceeds therefrom,

Defendant.

NO. C

VERIFIED COMPLAINT FOR
FORFEITURE IN REM

COMES NOW, the United States of America, by and through Jenny A. Durkan,
United States Attorney for the Western District of Washington, and James M. Lord,
Assistant United States Attorney for said District, and alleges:

I.

This is a complaint for the forfeiture in rem of \$102,000.00 in United States
currency, more or less, and all proceeds therefrom ("the defendant currency"), pursuant to
18 U.S.C. § 981(a)(1)(A), for violations of 18 U.S.C. §§ 1956(a)(1)(A) and
1956(a)(1)(B)(i).

II.

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, and
28 U.S.C. § 1355.

III.

This Court has venue pursuant to 28 U.S.C. § 1395.

IV.

The defendant funds as described above are now and during the pendency of this action will be in the jurisdiction of this Court.

V.

From 2005 until July, 2008, Shawn Portmann (hereinafter "Portmann") was the Senior Vice President of Bank Home Loans, a residential lending division of Pierce Commercial Bank (hereinafter "PCB"). From July 2008 through 2009, Portmann continued to work in the mortgage industry. PCB sold mortgages originated by PCB Home Loans to secondary investors. Beginning around June 2009, Special Agents from the Federal Bureau of Investigations (FBI), US Postal Inspection Service, Housing and Urban Development-OIG, and Internal Revenue Service-CI (IRS-CI), began actively investigating the mortgage loan practices of PC Bank Home Loans. The investigation revealed that Portmann and the two other principals at PCB Home Loans had devised a scheme involving originating, processing and/or brokering mortgage applications with materially false representations to induce financial institutions to fund and/or purchase loans. Loan data from PCB, obtained during the above-mentioned investigation, identified approximately 11,442 mortgage loans originated by loan officers at PC Bank Home Loans, totaling more than \$2.2 billion. Portmann was identified as the originating loan officer on approximately 5,253 loans, totaling more than \$990 million. Loans brokered by Portmann account for nearly half, 46 percent, of PC Bank Home Loans' total loan volume. To date, based on interviews and a review of financial records, the investigation has revealed that over 50% of these transactions were fraudulent. A significant number of loan files contained misrepresentations, and fraudulent documentation. Portmann's scheme involved falsifying borrowers' income, forging or doctoring supporting documents, obtaining inflated appraisals, misrepresenting occupancy, and disregarding or falsely resolving underwriters' conditions. For each loan

1 file funded by PCB, Portmann caused PCB to wire the funds to the escrow company
2 handling the closing on the loan.

3 VI.

4 Portmann's personal bank accounts, Bank of America linked checking account
5 *****9191, held in the name of Shawn Portmann, and savings account *****7466, held
6 in the name of both Portmann and his personal assistant "AB," were used in the scheme
7 to obtain funding of fraudulent mortgage loans for borrowers. Specifically, Portmann
8 would, through "AB," obtain cashier's checks from the aforementioned Bank of America
9 accounts to improve the appearance of a borrower's financial condition. The checks
10 would be presented as evidence that the debts would be paid. The remitter on the
11 cashier's check named a mortgage loan borrower instead of the account holder(s),
12 Portmann or "AB." Within a few days, the cashier's checks were re-deposited into one
13 of the two Bank of America accounts. The endorsement on the back of the cashiers check
14 included a notation that they were "not used for intended purpose." Between 2006 and
15 2009, 85 cashier's checks totaling more than \$899,000.00 were purchased from and then
16 re-deposited into Bank of America accounts *****9191 and *****7466.

17 VII.

18 Portmann and the other PCB Home Loans employees were compensated from
19 commissions generated by fees, rebates and Service Release Premiums (hereinafter
20 "SRP") from mortgage loans. SRP is the payment received by financial institutions on
21 the sale of a closed mortgage to the secondary market; PCB retained 30 percent of SRP
22 and Portmann and PC Home loans received 70 percent. Payments from PCB were
23 deposited to Portmann's Bank of America accounts numbers *****9191 and *****7466.
24 Between 2006 and 2008, Portmann deposited at least \$547,443.00 to account number
25 *****9191 and at least \$265,463.00 to account number *****7466 from payroll and
26 other disbursements from PCB.

VIII.

In about January 2010, during an interview of "AB," conducted by Special Agents from IRS-CI and the FBI and an Assistant United States Attorney, "AB" stated that she regularly withdrew cash from Portmann's savings accounts under Portmann's direction, placing the withdrawn funds in a safe in Portmann's house. In all, she withdrew about \$500,000 which she always took to Portmann's house. "AB" tracked all of the funds contained in the safe and maintained a log to record currency added or removed. "AB" later identified the yellow sheets of paper contained in the trash bag handed over by "SS" and accompanying the \$102,000.00 in United States currency as this log.

IX.

On or about March 3, 2010, "SS", through his attorney, turned over custody of the \$102,000.00 in United States currency, contained in a trash bag, to a Special Agent from IRS-CI in Tacoma, Washington. Other contents of the trash bag included one empty Bank of America envelope with handwriting on it and several sheets of lined yellow legal-sized paper with handwriting.

X.

During an interview of SS, conducted by Special Agents from IRS-CI and the Federal Bureau of Investigation (hereinafter "FBI") and an Assistant United States Attorney on or about March 12, 2010, "SS" stated that Portmann had given him a backpack sometime in late January or early February 2010 containing a large sum of United States currency. According to "SS", Portmann had become aware that he was the subject of an ongoing fraud investigation and consequently asked "SS" to keep the United States currency at his home. Portmann told "SS" that he believed the FBI thought Portmann was a flight risk and because he had a lot of cash at home, he did not want the FBI to think he would use it to flee. Portmann told "SS" he could borrow some of the money if he wanted to. "SS" kept approximately \$7,500.00 to pay bills. Through his attorney, "SS" turned over the entire remaining balance to IRS-CI agents on March 3, 2010.

XI.

On or about March 4, 2010, IRS-CI Special Agents reviewed the contents of the trash bag. The defendant currency was contained in two separate packaged amounts of \$100,000.00 and \$2,000.00 in United States currency. The \$100,000.00 in United States currency was packaged in ten bundles of \$100 bills with each bundle containing \$10,000. Each bundle was banded together with a currency strap and sealed in a plastic bag upon which was a small white sticker with a red strip. The sticker had three lines of text, reading from top to bottom "122908," "FRB-SEA," and "00002." This shrink wrapped packaging and bundled currency is consistent with the system used by the United States Federal Reserve Bank (hereinafter "FRB") when currency is shipped to banks. The remaining \$2,000.00 of the defendant currency was contained within a Bank of America envelope.

XII.

On or about March 5, 2010, Officer Tim Kroll of the United States Federal Reserve Bank ("FRB") in Seattle, WA, reviewed the photos of the \$100,000 in currency and confirmed it appeared to be in FRB packaging. Officer Kroll stated that a bank would have to request currency from the FRB in order to have the funds available for a customer to withdraw, and that banks may choose to leave it in the FRB wrapping so that they don't have to recount it for their customers. Officer Kroll further stated that the defendant currency in question, as packaged and as tracked with the unique identification, reading from top to bottom, of "122908," "FRB-SEA," and "00002." would have been distributed to a bank in about March 2009.

XIII.

On July 16, 2010, Special Agents from IRS-CI interviewed the assistant manager of the Puyallup, WA branch where the currency withdrawals from PORTMANN's account were conducted. The manager summarized the bank's bulk cash procedures and stated that when the bank has a customer requesting bulk cash, that they order it from the local branch of the Federal Reserve Bank. The cash is usually received by the bank

1 within a week, depending on when it was ordered in relation to the banks weekly
2 scheduled FRB delivery. When bulk cash is ordered the bank will leave it in the shrink
3 wrapped bundle they receive it in from the FRB. When the customer picks up the cash,
4 the bank will either provide it to the customer in the shrink wrap, or break it out and count
5 it, whichever the customer requests. According to the manger, the branch rarely orders
6 bulk cash in intervals of, or exceeding, \$100,000, and recalled doing it on a few instances
7 for the same customer, Shawn Portmann. She stated that the cash was usually ordered
8 and picked up by his assistant "AB", and the first time "AB" came to pick-up cash that
9 totaled over \$100,000, the bank was concerned for her safety, and requested that
10 Portmann accompany "AB." The manager further stated that Portmann instructed the
11 bank to leave the cash in the \$100,000 shrink wrapped brick, so the teller handling the
12 transactions did not break it out and count it, but rather provided "AB" the brick.

13 XIV.

14 On about July 22, 2010, "AB," through her attorney, reviewed photographs of the
15 items obtained from "SS," which included three sheets of legal size yellow lined paper.
16 "AB" stated that the sheets of legal paper made up the currency log that she kept in a safe
17 located in Portmann's home. The sheets are numbered 1, 2 & 3, starting in mid 2008.
18 According to "AB," the majority of the entries were made by her, but Portmann did enter
19 amounts into the log. "AB" last saw the log when she made the entry of "\$9000" on
20 12/2/09. "AB" verified that all withdrawals from the bank accounts, cashing of
21 paychecks and/or other checks and entries to the log were made at the direction of
22 Portmann. The log contained an entry of \$100,000 on 3/31/09, which "AB" recalls that
23 the bank made Portmann personally pick-up. However, "AB" went to the bank with
24 Portmann when he picked up the currency, and Portmann handed the \$100,000 to her
25 outside the bank and she took it to the house and put it in the safe (increasing the balance
26 of currency in the safe, according to the log, from \$455,446 to \$555,446). According to
27 "AB," Portmann had a key to the safe and accessed it whenever he needed cash, and
28 sometimes he personally wrote an entry on the log. By directing "AB" to withdraw

1 currency from his bank account and put it into Portmann's safe, Portmann intended to
 2 promote the wire fraud scheme by ensuring that the proceeds from the scheme were
 3 available to him for his own use, and to conceal the nature and source of the wire fraud
 4 proceeds by turning it into currency that he could spend without it being easily traceable
 5 to the fraudulent scheme.

6 XV.

7 Bank of America records obtained during the course of the aforementioned
 8 investigation reflect a withdrawal of \$100,000.00 in United States funds from account
 9 *****9191 on or about March 31, 2009. The log maintained by "AB" reflects, on March
 10 31, 2009, the deposit into Portmann's safe of \$100,000.00 in United States currency.

11 XVI.

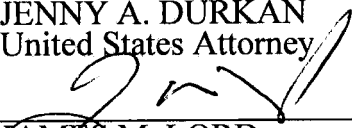
12 By reason of the foregoing, the defendant currency is subject to forfeiture pursuant
 13 to 18 U.S.C. § 981(a)(1)(A) as property directly traceable to property involved in money
 14 laundering, in violation of 18 U.S.C. §§ 1956(a)(1)(A) and 1956(a)(1)(B)(i).

15 WHEREFORE, the United States requests that due process issue to enforce the
 16 forfeiture of the defendant currency, that due notice be given to all interested persons to
 17 appear and show cause why forfeiture of the defendant currency should not be decreed,
 18 that the defendant currency be condemned as forfeited to the United States to be disposed
 19 of according to law, and for such other and further relief as the Court may deem just and
 20 proper.

21 DATED this 21th day of July, 2010.

22 Respectfully submitted,

23 JENNY A. DURKAN
 24 United States Attorney

25 
 26 JAMES M. LORD
 27 Assistant United States Attorney
 28 United States Attorney's Office
 700 Stewart Street, Suite 5220
 Seattle, Washington 98101-1271
 Phone: 206-553-2242
 Fax: 206-553-6934
 E-mail: Jim.Lord@usdoj.gov

VERIFICATION OF COMPLAINT

STATE OF WASHINGTON)

COUNTY OF PIERCE }

ss

I, Silvia Reyes, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

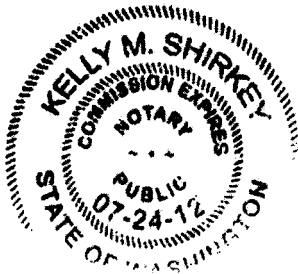
I am Special Agent with the Internal Revenue Service - Criminal Investigations Division and am assigned to this case. I have read the attached Complaint and know the contents thereof; I have furnished the information contained in the Complaint based upon my own investigation and that of other reliable official Government sources; and, based on information and belief, the allegations contained in the Complaint are true.



SILVIA REYES

Internal Revenue Service - CID

SUBSCRIBED and SWORN to before me this 30th day of July, 2010, by Silvia Reyes

Print: Kelly M. Shirkey

Notary Public in and for the
State of Washington, residing
at Spanaway

Expires: 7-24-2012

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

James M. Lord, Assistant United States Attorney
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
(206) 553-2242, Facsimile: (206) 553-6934

DEFENDANTS

\$102,000.00 IN UNITED STATES CURRENCY, more or less

County of Residence of First Listed Defendant King
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. § 981(a)(1)(A) for violations of 18 U.S.C. §§ 1956(a)(1)(A) and 1956(a)(1)(B)(i)

Brief description of cause:

Civil Forfeiture of property traceable to Money Laundering

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 30, 2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE